



South Carolina  
State Reorganization Commission

CONDUCTED  
THE SUNRISE REVIEW PROCESS For the

Review of Occupational Registration and Licensing  
For  
Interior Designers

Sunrise Subcommittee Report  
Rep. E. LeRoy Nettles, Jr., Chairman

December 4, 1991

# STATE REORGANIZATION COMMISSION

## Sunrise Review Subcommittee

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## PREFACE

Senate Bill 770, the proposed "South Carolina Interior Designers Act," was introduced on March 13, 1991, by Senator Warren Giese. The bill was referred to the Senate Labor, Commerce, and Industry Committee (LCI) on its first reading. On May 1, 1991, LCI Chairman Senator J. Verne Smith, on behalf of the Labor and Employment Subcommittee, requested that the State Reorganization Commission study the proposal outlined in S. 770 pursuant to the Sunrise Law. This report is a summary of written and oral testimony received from interested parties, and research performed by Commission staff during the course of the Sunrise Review Process.

## THE SUNRISE REVIEW PROCESS: AN OVERVIEW

In 1988, the South Carolina General Assembly enacted Act 572, "Review of Occupational Registration and Licensing." More commonly known as the "Sunrise Law," this Act addresses the issue of the growing number of occupations seeking state regulation of their professions.

Subcommittees of standing House or Senate Committees, which are referred bills proposing to regulate a profession, have three options under the Sunrise Law. The subcommittee can handle the bill independently, request assistance from the State Reorganization Commission to conduct a public hearing, or request that the Commission be responsible for a public hearing on the bill.

When requested by a subcommittee "to assist," the Commission will provide notices of a hearing to the public and to any public or private organization that may be affected by the proposed bill and assist the subcommittee as required. In addition, the Commission may solicit the participation, on the hearing panel, of state agency personnel who are authorized to regulate a profession similar to the one under review. After conducting its research and receiving the public testimony, the Commission reports its findings and recommendations to the subcommittee.

If a subcommittee requests the Commission to conduct a public hearing, the Commission will be directly responsible for the hearing and subsequent reporting of its findings to the General Assembly. The Commission is to determine if existing remedies adequately protect the public's health, safety, or welfare. This is accomplished through oral and written testimony submitted for the public hearing. In addition, all other evidence collected by the Commission during its evaluation is to be considered.

In determining the need for regulation of the profession, the Commission must evaluate the bill using standards provided by the Act. Further, the Act states that any recommendation for regulation should be the "least extensive and restrictive form of regulation consistent with the public interest." Licensure can be recommended by the Commission only when "registration or other means of regulation is not adequate to protect the health, safety or welfare of the public."

The Commission may choose to recommend one or more means of regulation. Recommendations to the General Assembly may be that: No regulation be created; that regulations be assigned to an existing board, agency, or commission; or, that a new board be established. If registration or licensure is recommended, the Commission is to recommend what qualifications should be specified for the registration or licensure of the profession and what activities may be engaged in by persons pursuing the occupation.

The State Reorganization Commission will issue a final report to the chairperson of the subcommittee of the House or Senate to which the bill was referred, the President

Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor. In addition, the Act requires that the Commission's recommendations be mailed to any person who has made a request concerning occupational regulation that was considered by the Commission. If no changes with respect to regulation of an occupation are recommended, the Commission will notify, by mail, any person who has requested that regulations or changes be recommended.

In conclusion, with the passage of the Sunrise Law, the General Assembly has enacted a method by which the Legislature can review proposals for regulating professions. It now has statutory criteria for evaluating attempts by interest groups to license or register an occupation. At minimum, the Law requires that proposals: (1) show the harm that would occur to the public in the absence of regulation, and (2) demonstrate that licensing is the only way to address the public's need to be protected. The economic impact of state regulation on the consumer also must be addressed.

Sunrise places the "burden of proof" on professions to justify requests for regulation while examining what level of regulation would most benefit the public. Is the public's interest served by restricting the freedom to enter or practice a trade or profession? These questions must be answered before the State willingly infringes on an individual's right to enter an occupation.

## EXECUTIVE SUMMARY

This report examines the potential impact of regulation of interior designers by the State of South Carolina. The nine evaluation criteria contained in the "Sunrise Law" (Act 572) are designed to determine the extent to which the public has been or could be harmed as a result of the unregulated practice of interior designers, and whether the benefits of regulation of the profession by the State outweigh the potential negative effects such intervention may have, such as limiting the public's access to interior design services that are affordable and available in sufficient quantity and quality.

After analyzing testimony from interested parties, along with staff research gathered throughout the process, the State Reorganization Commission's Sunrise Subcommittee arrived at the following conclusions:

*No sufficient and reliable evidence was found to suggest that harm is occurring to South Carolinians as a result of the unregulated practice of interior designers. While some potential for harm was suggested, no evidence was found to support a conclusion that the potential for harm is directly related to the unregulated practice of interior designers, or that the proposed regulation would reduce the potential hazards cited. (Criterion 1, page 14).*

The Sunrise Subcommittee conducted research to discover not only specific cases of harm that have resulted from the incompetent practice of interior design, but also to determine the potential for harm to the public that may result from the unregulated practice. The Subcommittee did not find any documented cases of harm that suggest the profession is in need of regulation.

*The public may rely on existing credentialing systems developed by interior design professional organizations that essentially duplicate the qualifications required under the proposed law (Criterion 3, page 19).*

It does not appear to be in the public interest, given the absence of documented cases of actual or potential harm attributable to interior designers, to impose state regulation that is duplicative of an existing credentialing system. The Subcommittee determined that the market for interior design services is characterized by a high degree of consumer sophistication in regard to judging the quality of interior design services that have been, or will be, rendered. In the absence of state regulation, a number of alternative methods presently exist that help reduce consumer uncertainty regarding the selection of a competent interior designer. The potential threats associated with poor interior design services are found primarily in larger, commercial projects. Clients who contract for the services of interior designers are capable of judging the qualifications of the persons offering such services.

*Therefore, in accordance with the provisions of Act 572, the State Reorganization Commission's Sunrise Subcommittee recommends that the General Assembly enact no legislation regulating interior designers at this time.*



The Sunrise Subcommittee further determined:

Given the current circumstances that exist in regard to the practice of interior design, there appears to be no potential net economic benefit that would accrue to the public as a result of regulation of interior designers in terms of the cost of goods and services, or from creation of an additional agency of state government.

## SCOPE AND METHODOLOGY OF THE REPORT

This report presents recommendations made by the State Reorganization Commission in conjunction with its review of the need for occupational regulation of interior designers in South Carolina. Occupations seeking regulation in South Carolina must be reviewed according to criteria established in Act 572 of 1988, "Review of Occupational Registration and Licensing" or the "Sunrise Law." The Sunrise Law contains nine factors which are to be applied when the State Reorganization Commission reviews a request for professional regulation. The criteria as defined in §1-18-40 of the South Carolina Code of Laws, 1976, as amended:

1. Whether the unregulated practice presents a clear and recognizable danger to the public;
2. Whether the trade or profession is such a specialized skill that the public is not able to select a competent practitioner without some assurance of professional qualifications;
3. Whether the public can be protected by other means;
4. Whether strengthening existing laws would provide adequate protection;
5. Whether third-party payments can only be made to a licensed practitioner;
6. Whether regulation will increase the cost of goods;
7. Whether regulation will increase or decrease the availability of services to the public;
8. Whether regulation will ensure practitioner competency; and,
9. Whether regulation can be provided by an existing agency or by existing licensed practitioners.

The report was produced in accordance with the provisions of the Sunrise Law, as well as the policies and procedures contained in the Sunrise Review Operating Manual, approved by the Director of the State Reorganization Commission and implemented in March 1989.

### *Request for Assistance*

On May 1, 1991, Senator J. Verne Smith, Chairman of the Labor, Commerce, and Industry Committee, requested that the State Reorganization Commission review Senate Bill 770 in accordance with the provisions of Act 572 of 1988. An analyst of the State Reorganization Commission was assigned to the project, and the members of the Commission's seven-member Sunrise Subcommittee were notified.

## *Background and Research*

State Reorganization Commission analysts collected background information from state and national sources, using the nine evaluation criteria outlined in the Sunrise Law as a guide. These sources included the Council of State Governments' Clearinghouse for Licensing, Enforcement, and Regulation (CLEAR); surveys of other states; the S.C. Department of Consumer Affairs; the S.C. Employment Security Commission; existing state regulatory boards, such as the Board of Architectural Examiners, the Board for Barrier Free Design, the Building Code Council, and the State Fire Marshal; and the federal office of Occupational Safety and Health Administration (OSHA).

In addition, a number of professional associations and organizations were contacted for information; these groups included the South Carolina Chapter of the American Institute of Architects, the South Carolina Coalition of Interior Designers, the Foundation for Interior Designer Education and Research, the American Society of Interior Designers, the National Council for Interior Design Qualification, the South Carolina Hotel and Motel Association, and the S.C. Building Officials' Association.

On August 27, 1991, a survey was mailed to the Department of Consumer Affairs, the Office of the Attorney General, and the six Better Business Bureau offices serving the South Carolina area. The survey requested information about the nature, frequency, and handling of complaints involving interior designers. By September 23, 1991, all but two of the surveys were returned.

An extensive bibliographical search was conducted using library resources of the State Reorganization Commission, the Council of State Governments, the South Carolina State Library, and the Thomas Cooper and Law Libraries of the University of South Carolina.

## *Response to Criteria Solicited from Applicant Group*

The South Carolina Coalition of Interior Designers, as chief proponent of professional regulation of interior designers in the State, provided the Sunrise Subcommittee and the State Reorganization Commission with a written response to the nine evaluation criteria.

## *Sunrise Subcommittee Meeting*

The initial meeting with the Sunrise Subcommittee to discuss the Sunrise Review of interior designers was held on October 21, 1991.

## *Public Hearing*

Letters were mailed to approximately 125 individuals and organizations notifying them of the Sunrise public hearing on regulation of interior designers to be held on October 22, 1991, and outlining procedures for those wishing to testify. Thirteen people

testified before the Sunrise Subcommittee on the proposed regulation of interior designers. A certified court reporter produced a verbatim transcript of the proceedings.

### *Preparation of the Report*

Following analysis of written and oral testimony, along with information gathered during the background research, a draft report containing revised findings and recommendations was prepared by State Reorganization Commission staff and presented to the Sunrise Subcommittee members for review. The Sunrise Subcommittee adopted the report at a meeting held on December 4, 1991.

### *Format of the Report*

The research and conclusions developed for each of the nine evaluative criteria comprise the bulk of the report. Each criterion is presented in the following format:

**Statement of Criterion.** The criterion is stated as it appears in Act 572 of 1988.

**Explanation of Criterion.** A brief statement of the standards used in judging the extent to which existing conditions met the criteria, with regard to the occupation under review. Most of the statements are based on the professional literature on occupational licensing, such as the Council of State Government's "Questions a Legislator Should Ask," and Benjamin Shimberg's book, *Occupational Licensing: A Public Perspective*.

**Subcommittee's Research.** These sections contain information compiled by the staff of the Sunrise Subcommittee during the course of background research on the occupation under review. Additionally, this section assesses the impact the legislative proposal would have, in regard to each of the criteria, if enacted.

**Proponents.** Summary of written and oral testimony received throughout the process. Most of the information here was provided by the chief proponents in response to the nine evaluative criteria.

**Opponents.** Summary of arguments of those opposing regulation, as evidenced in written and oral testimony received.

**Subcommittee's Conclusion.** This section represents the Sunrise Subcommittee's decision as to whether the criterion has been met in such a way as to pose a net benefit to the public.

## BACKGROUND

The use of the term "interior designer" first emerged in the year following World War II. Prior to that time, the term "interior decorator" had been used to refer to the profession that had originated at the turn of the century. The changes within the profession that emerged after World War II, with the advent of more commercial design opportunities, led to a debate among practitioners over who was qualified to refer to themselves as an "interior designer." A movement within the profession to distinguish practitioners on the basis of membership in professional organizations and educational requirements began in the late 1950s. In 1975, a major impetus for professional recognition for interior designers was the merger of the American Institute of Designers (formerly Decorators) and the National Society of Interior Designers to form the American Society for Interior Designers (ASID). Over the past twenty-five years, the interior design profession has developed a voluntary system of credentialing that includes an examination, accreditation standards for educational programs, and professional memberships offered through a number of interior designer organizations (Piotrowski 1989).

Alabama was the first state to regulate interior designers, enacting a title protection act in 1982. Title protection acts reserve the use of the title "interior designer" to those candidates who meet specific education and experience requirements, and pay a fee to the state agency charged with enforcement of the act. Since 1982, eleven additional states have enacted similar laws, and the District of Columbia has enacted a law that restricts the practice of interior design through the examination of applicants. While the state credentialing efforts have been motivated in large part by the desire of professional interior designers to distinguish themselves from practitioners without credentials, in some states, such as California, licensing of interior designers has been in response to state laws or local building ordinances that prohibit interior designers from performing actions that they have previously performed.

In December 1989, four national design professional associations: the American Institute of Architects, the American Society of Interior Designers, the Institute of Business Designers, and the International Society of Interior Designers signed a letter of agreement regarding the elements interior designer title registration should contain.

Legislation proposing to establish a title act for interior designers, and an Interior Design Board, was introduced simultaneously in both houses of the South Carolina General Assembly in March 1991.

## EVALUATION CRITERIA

**Criterion 1 - Whether the unregulated practice of interior designers presents a clear and recognizable danger to the public.**

### Explanation of Criterion

*Criterion One is the most important of the nine Sunrise criteria, since under the Sunrise Act, a recommendation to regulate a profession is warranted only in those cases where it can be demonstrated that the public has suffered harm that is directly attributable to the lack of regulation, and that the harm occurring is of sufficient magnitude to warrant state intervention.*

### Subcommittee's Research

As outlined in the Sunrise Act, the purpose of state laws regulating professions and occupations is to protect the public from harm that could be caused by incompetent practice. Some of the ways in which unregulated professionals may pose a threat to the public are by: (1) lacking proper qualifications; (2) using devices and substances that are dangerous; (3) performing functions that are inherently risky or dangerous; or, (4) performing such tasks in situations requiring a large degree of unsupervised, independent judgment. The Sunrise Subcommittee evaluated the potential for public harm occurring as a result of incompetent interior design practice. The Subcommittee also searched for evidence of actual instances where South Carolinians have been harmed as a result of the unregulated practice of interior designers.

### Occupational Profile of Interior Design

Interior design is the profession which applies design principles to planning, designing, and furnishing interior environments of residential, commercial, and institutional buildings so that these spaces are practical, aesthetic, and conducive to the client's intended purposes. The interior designer's tasks involve analyzing the clients' needs, and advising clients on factors such as space planning, layout and use of furnishings, equipment, and color schemes to achieve the desired results. The interior designer may act as the client's agent in selecting and purchasing furnishings, art works, and accessories; or, in subcontracting for installation of carpeting, draperies, paint and wallcovering, art work, furniture, and related items.

Interior design practice is generally divided into two categories: residential and nonresidential. *Residential interior design* involves the planning and selection of interior finishes, materials, and products for private residences. *Nonresidential interior design* involves the planning and specifying of interior materials and products used in public and private spaces such as stores, offices, hotels, and hospitals. Nonresidential interior design is sometimes called *contract interior design*, in reference to the manner in which

the nonresidential interior designer is compensated. While the nonresidential interior designer generally is paid for his or her services through a contractual fee arrangement, residential interior designers are more likely to derive their income primarily through commission or percentage arrangements on the furnishings and accessories they provide to the client.

Today, interior designers work in diverse settings, ranging from a one-person design studio operating out of someone's home to an architectural or interior design firm with several management levels. According to the South Carolina Employment Security Commission, there are an estimated 800 interior designers in South Carolina. Approximately half of the State's interior designers are self-employed, while the other half is employed in the retail trade sector. This latter group consists primarily of interior designers employed by retail home and office furnishing dealerships to assist customers in determining their needs for products and services offered by these establishments. The median annual income of interior designers in South Carolina is approximately \$32,800.

### *Potential for Harm in Interior Design Practice*

Advocates of state regulation of interior designers contend that South Carolinians' confusion over who is a qualified interior designer often results in a client's reliance on an unqualified or unscrupulous practitioner. Unqualified interior designers, they contend, pose a threat to public health and safety, since they lack knowledge of building and fire codes and life and safety requirements. Qualified interior designers, on the other hand, have completed a course of interior design education and supervised experience, and possess the knowledge to plan and design spaces that allow proper exit during a fire, are accessible to the handicapped, and use materials that are nontoxic and nonflammable. Therefore, proponents believe that regulation of the profession is needed to reserve the use of the title "interior designer" only to those practitioners who meet minimum education, experience, and examination requirements.

In regard to residential interior design, the aesthetic dimension of the interior designer's practice (planning and coordination of color schemes, furnishings, decorative accessories, etc.) is the one with which the average consumer is most familiar. The abundance of magazines and publications depicting interior design installations have produced a number of sophisticated consumers. Since such information is readily available, many consumers are familiar with the vast array of product and design options that are available for the interiors of their home or workplace, and prefer to develop their own interior design schemes, without the aid of a professional interior designer.

However, some consumers choose to employ the services of an outside consultant in designing the interiors of their homes. Hiring an interior designer not only provides the residential customer with access to the designers' knowledge of design considerations, but also with access to trade sources for products and furnishings he may not have otherwise. The residential interior design plan is determined largely by the

designer's collaboration with the client, guided by the client's personal taste in furnishings, layout, and colors. In residential interior design practice, space planning and design layout are limited by the existing construction and floor plan of the residence, and structural alterations to the residence are generally not part of the interior design plan. An interior designer whose plans do involve structural changes or alterations to a residence must engage a licensed building contractor or residential specialty contractor to perform those alterations. Since the typical residential interior design project would not involve structural changes, the residential interior designer does not require an extensive knowledge of building and life-safety codes.

Over the past forty years, however, the interior design field has experienced a shift away from residential interiors, to nonresidential interiors. This trend has been intensified by changing technology and commercial building construction methods. While architects and engineers are responsible for structural components of commercial buildings, increasingly these buildings are "shells" for which interior designers define and plan interior spaces using nonpermanent walls or free-standing screens. Shopping malls and "office landscaping" provide examples of this trend in nonresidential architecture. Thus, nonresidential interior design, as compared to residential interior design, may involve significantly greater latitude on the interior designer's part in space planning and functional considerations.

The potential exists that an unsupervised interior designer, working on a nonresidential project, may install a design that contains violations of existing building, fire, and barrier-free codes and standards. Building and fire inspection and permitting processes provide the public with some safeguards in this area. Nonresidential clients contracting for interior design services must take these existing building codes and standards into consideration, or risk being penalized for non-compliance. The potential for non-compliance with existing codes and standards is further removed when the interior designer is associated or employed by a design firm, or a retail store, making the client's decision to employ an interior designer secondary to that of the original employer.

### *Search for Evidence of Harm from Incompetent Interior Designers*

The Subcommittee sought to determine if sufficient and reliable evidence existed that would establish the need for regulation of interior designers in South Carolina.

- The *Department of Consumer Affairs* reported that interior design is not a problem area in terms of complaints, as they have received none.
- The Consumer Fraud Division of the *Attorney General's Office* has not received any complaints against interior designers.
- A survey of the six *Better Business Bureaus* serving South Carolina turned up two complaints against interior designers over the past five years. Both



were against interior designers from the Columbia area, and both involved disputes over fee arrangements.

- The *State Board of Architectural Examiners* reported one disciplinary action involving an interior designer in Myrtle Beach, who was determined to have engaged in the illegal practice of architecture.
- The *State Board of Registration of Professional Engineers and Land Surveyors, Contractors' Licensing Board, Barrier-Free Design Board, Residential Builders' Commission, and State Fire Marshal* reported no record of complaints or disciplinary actions involving interior designers.
- When surveyed, the *interior design boards* established in six states, reported that, to date, they had not taken any disciplinary action against interior designers.

### Proponents

The interior designers supporting state regulation acknowledge that there have been no instances of harm in South Carolina directly attributable to interior designers. However, the South Carolina Coalition of Interior Designers states that the present non-existence of licensing of interior designers in South Carolina is an indication of a lack of public awareness and concern regarding the practice of interior design, due in part to the State's good fortune in not having had to respond to loss of life from a fire or product-related injury as a result of poor design.

One interior designer characterized the distinction between unqualified and qualified interior designers as being one of the professional qualified by education, experience, and examination, versus the individual whose only qualifications are "good taste and a tax number." Proponents of regulation allege that individuals in the latter group pose a threat to the unsuspecting public, since these individuals do not possess the professional interior designer's knowledge of building, barrier-free, and life safety requirements. Some states have suffered injury and loss of life due to improper use of materials or negligence in design. The Beverly Hills Supper Club fire in Kentucky, and the MGM Grand Hotel Fire in Las Vegas, proponents argue, demonstrate how much public safety depends on the judgment of interior designers.

South Carolina has been fortunate to have avoided a major disaster. Lack of regulation of persons providing interior design services may produce public danger related to the following:

- **Fire hazards.** Floor and wallcoverings, drapery and furnishings are the primary elements providing fuel to sustain a growing fire.
- **Falls and other injuries.** Unsafe surfaces may cause a consumer to fall resulting in internal injuries or fractures. Improper specification of a stair

railing height may result in a potential fall. Plate glass doors (rather than tempered glass required by generally acceptable codes and regulations) could result in bodily injury due to impact. Improper custom design of interior components which reveal sharp projections, inadequate structural stability, and inadvisable materials and finishes can cause serious injury.

- **Unsanitary or unhealthy conditions.** Improper specification of floor, wall or ceiling finishes, particularly in health care institutions and food service facilities, can result in these interior elements producing and retaining odors, subject to mildew, mold, vermin, organic deterioration, and harboring of bacteria. Materials used in carpeting, draperies, curtains, shades, and wall coverings may attract dust or molds or contain irritating chemicals.
- **Poor ergonomic conditions.** Improperly designed chairs can cause varicose veins, bad backs, and other musculoskeletal disorders as well as contributing to psychological stress. Improper specification of color, especially in health or mental institutions, prisons and children's facilities can result in hyperactivity or depression. Poorly specified color can "raise blood pressure, pulse rate, and increase tension." Improper or inadequate lighting can cause falls, eyestrain, headaches, indigestion and stress. Improper specification of materials which transmit sound can cause increased blood pressure, heartbeat, and muscle tension, and decreased activity of the digestive system.

The South Carolina Chapter of the American Institute of Architects (AIA) supports the South Carolina Interior Design Coalition's proposal for title protection, contingent upon amendments that clearly establish that the statute does not restrict the practice of interior design, pursuant to the national agreement by the American Institute of Architects, and interior designer organizations. A spokesperson for the South Carolina AIA testified that, as to general life safety issues, the Board of Directors of his organization "affirm that life safety matters in building design have been traditionally the responsibility of licensed architects and engineers, and that there is adequate protection of the public in that area." Instead, the proposed legislation would benefit the public by providing a means for a consumer to determine the qualifications of an interior designer.

### Opponents

The State Board of Architectural Examiners testified that the criterion is not met, since, under the proposed regulation, unlicensed practice of interior design would be allowed to continue. A 1988 report by the National Council of Architectural Registration Boards (NCARB), submitted into the hearing record by the State Board of Architectural Examiners, acknowledges that large-scale nonresidential interior design projects involve matters well beyond the knowledge, skills, and abilities of the layperson. The report cites the necessity for a competent contract interior designer to understand when mechanical, electrical, structural, or other architectural issues arise for which another design

professional must be engaged. The report expresses doubt that the customer needs the intervention of the state in order to be protected from injury, since commercial organizations can exercise reasonable prudence to ascertain the past record of an interior designers' qualifications.

The NCARB report concludes that the vast majority of interior design projects do not require such specialized knowledge, since they involve no substantial impact on the health, safety, or welfare of consumers. The report counters arguments that residential designers must understand the toxicity and flammability of fabrics by saying that manufacturers are expected to test and declare any dangerous aspects of their products. The report states: "Residential interior designers are employed for two reasons: they afford the consumer awareness and access to products not otherwise available, and they offer to apply their developed sense of taste, style, and aesthetics."

### Subcommittee's Conclusion

*The Subcommittee concluded that the unregulated practice of interior designers does not pose a danger to the public.*

The Subcommittee found no instance of documented evidence of public harm occurring or threatening to occur in South Carolina as the result of the unregulated practice of interior design. The proponents of regulation assert that the chief potential for public harm centers around the potentially damaging third-party effects that an interior designer's disregard or non-compliance with existing building codes and life safety requirements. The Subcommittee found no evidence of such instances occurring in South Carolina that could be directly attributable to incompetent interior design practice. If such instances do exist, it appears that strengthening the scope and enforcement of existing laws governing interior finishes, building construction, and life safety requirements would offer better protection to the public than the proposed regulation of the interior design profession.

The lack of complaints, or other evidence of public harm involving interior designers, makes it difficult to justify imposing state regulation on practitioners. The lack of evidence of harm suggests that the outcomes of the public's encounter with poor interior design services in South Carolina have been minor. Several factors may account for this situation, among them the Subcommittee's finding that interior designers do not use devices or substances, or perform functions, that are inherently dangerous. While the flammability and durability of the products interior designers use may pose an indirect threat, these products are not inherently dangerous in and of themselves. The Subcommittee also found that approximately 50 per cent of interior designers in South Carolina are employed in supervised settings, which may also account for the lack of negative outcomes involving interior designers.

Therefore, it is the conclusion of the Sunrise Subcommittee that the unregulated practice of interior designers does not present a clear and recognizable danger to the public at this time.

**Criterion 2 - The practice of the occupation requires such a specialized skill that the public is not qualified to select a competent practitioner without assurance that minimum qualifications have been met.**

### **Explanation of Criterion**

*Criterion Two seeks to determine the degree to which the public can pass judgment on the quality and outcome of the professional services being rendered. In the case of interior design services, to what extent can a consumer recognize whether an interior designer has rendered, or will render, competent service?*

*Issuance of a state credential is often justified in those cases where it can be shown that the public experiences difficulty in judging for themselves who is competent to provide certain services. However, regulation is more difficult to justify in those cases where consumers may rely on a number of information sources other than a state-issued credential, when seeking a competent professional. These methods include reliance on their own experiences or the experiences of others, information from publications, telephone directories, or professional associations. In order for an occupation whose practice is generally independent and autonomous to meet this criterion, evidence must be presented to show that: (a) members of the public play an active role in choosing a practitioner; (b) information about the qualifications of the practitioner is an important element in making that choice; and, (c) no existing mechanism provides such information as effectively as would the issuance of a state credential.*

### **Subcommittee's Research**

#### ***Selection of Residential Interior Designers***

Several mechanisms exist which allow residential customers to assess the competence of interior designers prior to retaining their services. Word of mouth referrals appear to be the most common mechanism clients use to secure interior design services. Consumers may rely on their own past experience, or the experiences of family members and acquaintances. Prior to selecting an interior designer, the client also has the opportunity to examine work previously performed by an interior designer, either directly or through viewing the interior designer's portfolio. In addition, publications, telephone directories, and consumer agencies such as the Department of Consumer Affairs and the Better Business Bureau provide information that reduces consumers' uncertainty regarding interior design services. As stated earlier, publications emphasizing interior design are abundant, and often contain guidelines for selecting interior design professionals. Telephone directories in South Carolina list practitioners offering interior design services. While a telephone listing is not intended to convey information about quality of service, many listings were found in directories throughout the state, in which practitioners used the letters "ASID" or "IBD" to denote their professional qualifications. The Charleston and Columbia telephone directories also

contained listings under the "American Society of Interior Designers," which list the professional members certified by the national organization. Such listings and advertisements are one method by which a consumer seeking to hire an interior designer who has formal education and training may do so. All of these existing methods assist residential consumers in securing quality interior design services.

### *Selection of Nonresidential Interior Designers*

In the nonresidential sector, interior design services are usually contracted with an independent designer or a design or architectural firm. Clients who contract for large and costly interior design projects should have the necessary expertise to evaluate the competency and qualifications of interior designers they employ. Like residential interior design customers, they may rely on word-of-mouth referrals and examination of the interior designer's previous work, prior to selecting a practitioner.

### **Proponents**

The average consumer is unaware of the risks inherent in incompetent practice. Historically, interior designers have worked for, with, and independent of architects, engineers, and contractors. Judgments made by interior designers frequently require knowledge of, and compliance with, generally accepted codes and regulations. This knowledge is particularly important for the "captive consumer." A captive consumer is a person using offices and public spaces, who is not involved directly in the selection of the interior elements they are forced to use. They assume that they are safe in interior spaces because they assume regulations exist to ensure their protection. In fact, very few do.

It is common for consumers to locate an interior designer on a referral basis. Checking references is the only existing protection available. Even in those cases where the consumer wishes to evaluate designers' qualifications, they have no way of easily doing so.

### **Opponents**

The State Board of Architectural Examiners testified that the public is presently experiencing no difficulty in selecting interior designers without assurance of qualifications. The grandfather clause in the proposed legislation would mitigate any assurance of professional qualifications.

### **Subcommittee's Conclusion**

*The Sunrise Subcommittee concludes that Criterion Two is not met, since the public is able to judge the relative merits of services offered by interior designers and select a competent practitioner using existing resources.*

As discussed under Criterion 1 (page 9), the market for interior design services is characterized by a high degree of consumer sophistication in regard to judging the quality of interior design services that have been, or will be, rendered. The results of an

interior designer's completed work are visible and immediate to clients. In the absence of state regulation, a number of alternative methods presently exist that help reduce consumer uncertainty regarding the selection of a competent interior designer. Even in the event that a consumer selects an incompetent interior designer, the Subcommittee determined that the majority of outcomes of poor interior design quality would not be directly life-threatening or irreversible, particularly in residential settings. In nonresidential settings, a client may use many of the same methods that residential customers rely upon: direct examination of the interior designer's previous work, word-of-mouth referrals, professional appellations, etc. In addition, nonresidential clients can also be reasonably expected to select an interior designer who will not expose the client, or third-parties, to the risks and liability associated with non-compliance with building, barrier-free, and life safety codes and standards.

**Criterion 3 - Whether the public is or may be effectively protected by other means, such as academic credentials, certification by nongovernmental entity, or membership in an occupational association.**

### **Explanation of Criterion**

*Criterion Three seeks to determine whether existing nongovernmental means are insufficient to protect the public. Evidence presented must show why a state-issued credential is necessary to allow the public to identify competent practitioners. This guideline is especially significant for professions that already have a strong, recognized private system of credentialing. If the proposed requirements for state credentialing are essentially identical to a recognized system of private credentialing, there should be compelling evidence to show why such redundancy is in the public interest.*

### **Subcommittee's Research**

Over the past twenty years, interior designers have established a recognized system of private credentialing within their profession. Competition among professional groups often has the effect of stimulating such nongovernmental initiatives within a profession in the interest of increasing the status and competency of practitioners. Professional associations may actively set standards outlining their scope of practice, code of ethics, and educational requirements. Through such voluntary processes, professional associations gradually achieve an internal consensus on the criteria required to enter and remain in a profession.

The existing nongovernmental system of credentialing for interior designers consists of the following:

**National certification.** Approximately 300 interior designers in South Carolina are professional members of professional interior design associations such as the American Society of Interior Designers (ASID) or the Institute of Business Designers (IBD). Only interior designers holding professional membership in these organizations may use the appellation "ASID" or "IBD" after their names. This credential informs clients that the interior designer has met requirements for professional membership in these organizations. These requirements typically include at least four years of interior design education, completion of the NCIDQ examination, and interior design experience. Membership in IBD requires work experience with a design firm engaged in at least 80 percent contract interior design. Professional membership in these organizations provide a network for referrals, continuing education requirements, and enforceable codes of ethics.

**National Council for Interior Design Qualification (NCIDQ).** NCIDQ was

incorporated in 1973 to develop and administer a common examination to test competency in minimum standards of interior design practice. Professional membership in ASID or IBD requires applicants to successfully pass the NCIDQ examination. To sit for the NCIDQ examination, an applicant must meet the eligibility requirements governing education and/or experience. Upon establishing eligibility, applicants have three years to pass the exam.

Foundation for Interior Design Education Research (FIDER). FIDER was created in 1973 to develop an accreditation program for interior design educational programs. This agency is charged with evaluating interior design educational programs and determining those that meet the standards established for formal accreditation. The organization annually publishes a list of the schools providing accredited undergraduate and graduate interior design programs in the United States. There are two FIDER-accredited interior design programs in South Carolina. The proposed legislation would require all interior designers certified in South Carolina after 2000 to be graduates of FIDER accredited educational programs. The proposed regulation would also allow an Interior Design Board to use funds to promote the Foundation for Interior Design Educational Research (FIDER) for schools and universities in the state.

### Proponents

Certification for interior designers is available through several professional organizations that represent practitioners of interior designers, but is a voluntary form of recognition with minimum competency the usual standard of acceptance. One interior designer testified that fifteen years of self-certification failed to give interior designers credibility, either to the public or professional team members. Minimum competency of the knowledge and technical skills required to be a practicing interior designer may be tested through an examination developed by the National Council for Interior Design Qualification. Many of the professional organizations representing interior designers require the NCIDQ examination for membership, but it is not required by all.

### Subcommittee's Conclusion

*The Sunrise Subcommittee concludes that Criterion Three is not met, since the public may rely on existing credentialing systems to identify interior designers who have qualified by education, experience, and examination.*

The Subcommittee found that interior designers have established a recognized system of private credentialing that is virtually identical to the proposal for issuance of a state-issued credential. Given the absence of documented harm occurring in South Carolina as a result of the practice of interior designers, the redundancy involved in issuance of a state-issued credential is not in the public interest at this time. Interior designers may presently avail themselves of the existing voluntary credentialing systems.



In turn, consumers can look for the appellation ASID or IBD as evidence that specific educational and examination qualifications have been met.

State regulation of a profession is not in the public interest if it exists solely to enhance the status of the profession, without a net benefit to the public. In lieu of a state-issued credential, interior designers and their professional associations could continue private efforts to promote existing voluntary self-certification processes, as well as the FIDER accreditation program for educational programs in the State.

**Criterion 4 - Whether current laws are ineffective or inadequate to protect the public's health, safety, and welfare and whether strengthening the laws would provide adequate protection to the public.**

### **Explanation of Criterion**

*Criterion Four seeks to determine whether adequate laws governing either standards of practice or devices, procedures, and/or substances used in a practice, do not exist, are not effectively enforced, or could not be strengthened to protect the public.*

### **Subcommittee's Research**

There are no statutes that directly govern the practice of interior designers. However, state and federal laws and regulations exist that are intended to protect the public from the potential hazards associated with interior designer's noncompliance with codes and standards.

- State laws and local ordinances governing the construction and alteration of buildings, are enforced through requirements for building permits and inspections by local building inspections, and the Building Codes Council. While adoption of building codes is voluntary among local jurisdictions in South Carolina, the larger metropolitan areas of the State have adopted building codes. Most interior designers in South Carolina are concentrated in metropolitan areas of the State. Legislation is presently pending in the General Assembly that would mandate the adoption of building codes by local jurisdictions.

- Major segments of the construction and design industry in South Carolina are already regulated. Licensure of architects, engineers, home builders, general contractors, and residential specialty contractors limit the functions that interior designers can legally perform in regard to building alterations and structural changes. State licensing laws governing the structural aspects of buildings and the mechanical and electrical systems prohibit interior designers who are not licensed from performing tasks affecting these areas. Consequently, interior design projects involving structural or technically complex mechanical systems require the interior designer to enlist the services and expertise of licensed professionals, or risk illegally engaging in the practice of these areas.

- The Standard Fire Prevention Code promulgated and enforced in South Carolina by state and local fire marshals contains restrictions on interior use of combustible materials. These restrictions are designed to prevent or limit the spread of fire hazards associated with "interior finishes": generally walls, partitions, floors, and ceilings of a building. While furnishings are not generally considered interior finishes,

they may be regulated as such, in some jurisdictions, if the fire marshal judged them to represent a hazard.

- The Department of Health and Environmental Control promulgates and enforces health, sanitation, and safety regulations for institutions such as hospitals and other health care facilities, hotels and motels, schools, and eating establishments. Many of these standards specifically relate to interior finishes, addressing such elements as carpet wearability, lighting, building code compliance, flammability of draperies, etc.
- Products safety and liability laws govern the products interior designers specify, such as fabrics, furnishings, and wallcoverings. Manufacturers carry most of the liability if they fail to safely design, produce, and test their products. Therefore, most of these products are tested in accordance with federal requirements for flammability, etc. In addition, sales transactions, as well as liability, for products that interior designers specify are governed by the provisions of the Uniform Commercial Code.
- Compliance with barrier-free design standards for public buildings is already mandated by state and federal laws. The Board for Barrier-Free Design establishes, publishes, and enforces minimum standards necessary to ensure barrier-free design and use of public and government facilities by the handicapped.
- The public has recourse through the courts in actions involving interior designers. Interior designers are legally liable for the work they or members of their staff do, and as such can be sued. Interior designers in other states have been found negligent for such things as installing carpet that does not comply with fire codes, failing to inform clients of potential risks of using certain materials, and failing to engage technical expertise on a project (Sweet 1985).

### Proponents

Since there are no laws governing the practice of interior design, it can be argued that the public health, safety, and welfare is inadequately protected. Additionally, there are no laws governing the standards of practice for interior design. The power of the interior design board to enforce professional standards through the revocation of licenses, fines, and other sanctions will protect the consumer against the incompetent practitioner.

### Opponents

The State Board of Architectural Examiners testified that the public is protected insofar as building design is concerned by requirements regarding architects, engineers, and building contractors, in addition to local and statewide permitting and inspection procedures.

### Subcommittee's Conclusion

*The Sunrise Subcommittee concludes that existing state and federal laws and regulations adequately safeguard the public from the potential threats posed by incompetent or unqualified interior designers.*

The absence of evidence of harm occurring to South Carolinians in regard to interior design suggests that existing laws and remedies are adequate to protect the public from the potential hazards cited by the proponents of regulation of the profession. If additional remedies are needed, strengthening the provisions of existing laws and regulations and their enforcement, and enactment of a statewide building code would appear to provide a greater degree of protection to the public than the proposed legislation. The degree to which the proposed law would be an effective remedy is covered in detail under Criterion Eight (page 32).

**Criterion 5 - Whether the practitioner performs a service for others which would qualify for payment of part or all of those services by a third party if the practitioners were to be regulated by the state.**

### **Explanation of Criterion**

*Criterion Five seeks to determine if regulation would allow third-party payments, and if so, whether such payments would provide a relative benefit to the public.*

### **Subcommittee's Conclusion**

*The Sunrise Subcommittee concluded that Criterion Five is immaterial to its review of the proposed regulation of interior designers, since interior designers do not currently receive third-party payments for their services, and nothing in the proposed regulation allows third-party payments to interior designers.*

## Criterion 6 - Whether regulation will increase the cost of goods.

### Explanation of Criterion

*Criterion Six seeks to determine whether regulation of the profession would, in itself, result in unnecessarily high prices for goods and services offered by practitioners. Regulation that increases entry barriers into a profession may increase wage costs and prices to the public.*

### Subcommittee's Research

The Subcommittee evaluated the costs to the State to regulate interior designers. The Subcommittee also sought evidence to indicate whether the proposed regulation would regulate the prices charged by interior designers, limit competition, impose unreasonable barriers to entry into the profession, or otherwise affect the costs of interior design goods and services. The cost of interior design services is closely related to the supply of the services available. The impact of regulation on the supply of interior designers is discussed in greater detail under Criterion 7 (page 29).

### *Costs to Administer Regulation*

Although not stated in the proposed legislation, South Carolina occupational licensing boards generally are required, under the annual Appropriations Act, to recover 110 percent of their appropriation through fees assessed on applicants. A fiscal impact statement prepared by the Budget Division of the Budget and Control Board estimates that the minimum initial cost to establish the Interior Designers Board would be \$5,000, to cover per diem and travel for board members, plus the funding necessary to employ an executive director and other employees, and to cover operating expenses involved with issuing certificates to qualified applicants. An amount in excess of these costs would have to be recovered through application, examination, and certification fees imposed on interior designers. The fees contained in the proposed regulation may not exceed \$200 for initial individual certification, and \$250 for a firm. Renewal fees could not exceed \$100 or \$150, respectively. The proponents estimate the Board's start-up costs to be approximately \$58,550 the first year, of which 107 per cent (\$62,500) would be recovered through revenues. For the successive four years, the proponents estimate annual expenditures of \$27,300 and annual revenues of approximately \$30,000 (110 per cent).

In addition to the application fees, an interior designer applicant would have to pay the National Council for Interior Design Qualification to take the NCIDQ examination. The examination fees are presently \$450 to take all six parts of the

examination. There would be also be additional costs to interior designers to comply with the annual eight-hour continuing education requirement, prior to renewal. At least one interior designer acknowledged that certification costs "would have to be reflected in our increase of fees for services to our customers."

### *Impact of Proposed Regulation on Costs*

Presently, there are no restrictions in South Carolina on who may call themselves an interior designer, or perform interior design services. The market for interior design services is, at present, very competitive. Consumers are generally sophisticated in their demands for interior design services, and the market is characterized by a wide range of design options. Interior designers find themselves in competition with such varied groups as architects, retail store and office furnishing store design services, home economists, and other interior design options. The proposed regulation is a title protection act; it reserves the use of the title "interior designer" for use by those persons who have met the educational, experience, and examination requirements specified. The proposed regulation does not prohibit anyone from practicing interior design, nor does it mandate the use of interior designers for specific tasks. In the absence of regulation, it is impossible to determine whether interior designers would be able to command higher prices for their services as a result of being certified. Competition of interior designers from uncertified practitioners may continue at its present levels. However, many conditions may exist in regard to regulation of the profession, that may lead to higher prices for consumers, if they were to occur as a result of regulation. These include:

- **Restrictions on number of eligible applicants** can result in increased costs. Evidence suggests that the proposed regulation may have the effect of eventually reducing the number of interior designers in South Carolina, by imposing successively more stringent entry requirements on applicants for certification. Initially, for one year, all applicants would be granted the opportunity to be "grandfathered," solely on the basis of acceptable interior design experience. Beginning the following year, applicants would be required to qualify for, and pass, the NCIDQ examination prior to certification. NCIDQ requires applicants, as a prerequisite to examination, to have completed a total of six years of combined education and experience. Beginning in 2000, an additional requirement of graduation from a FIDER-accredited educational program would be imposed on applicants. Such restrictions may have the effect of reducing the number of persons qualified to become certified as interior designers. A reduction in the number of interior designers may result in interior designers being able to charge more for their services, without any greater assurance of quality to consumers, given the number of applicants who had been initially grandfathered on the basis of experience alone. Thus, any economic benefits of regulation would accrue to initial applicants, at the expense of later applicants. Economists have characterized this effect on competition within a regulated profession as the "free rider" problem (Benham 1980).

- **Restrictions on the number of training opportunities.** The proposed regulation would mandate that interior designers entering the field after the year 2000, obtain the

required coursework at an institution accredited by the Foundation for Interior Design Education and Research (FIDER), a private accreditation body. There would be costs involved for educational institutions in the State seeking accreditation by the Foundation for Interior Design Education and Research. These costs may be passed on to consumers in the form of higher tuition fees, or in the case of state-supported institutions, be distributed to taxpayers. The proposed regulation also requires applicants to complete a period of supervised experience in interior design, ranging from two to four years. The extent to which this experience requirement would have an anti-competitive impact would be related to the number of available internship opportunities, and whether the time required for such an internship is reasonably related to the applicant's competence as an interior designer (Shimberg 1978).

### Proponents

The cost of implementing and administering the Interior Design Board is approximately \$58,550 for the first year, with an estimated expense of \$27,300 for the second and each subsequent year. The projected total annual revenue regulating for implementation is approximately \$62,500 the first year. The annual revenues for the second and subsequent four years is approximately \$30,000 per year.

The marketplace and competition will continue to control the cost of goods as well as salaries. Salary levels for interior designers are notoriously low, ranging between \$16,000 and \$50,000.

### Opponents

The State Board of Architectural Examiners questioned the ability of the interior designers to generate sufficient revenue as required by State law.

### Subcommittee's Conclusion

*The Sunrise Subcommittee could not conclusively determine whether regulation of interior designers would increase or decrease the cost of goods and services.*

However, there are elements of the proposed regulation that have the potential to increase costs to consumers. Since interior designers would be responsible for payment of fees associated with obtaining and maintaining a state-issued credential, as well as bearing the costs in excess of administering the state regulation, the potential exists that these fees will be passed on to consumers in the form of higher prices. It is difficult to predict, however, how significant an increase would occur.

There is some question, based on the estimated projections of expenditures and revenues associated with administering the proposed regulation, as to whether the proposed Board would be able to generate revenue sufficient to meet 110 per cent of appropriations, as required by the Appropriations Act. The proponents' projections estimate a revenue shortfall of three per cent the first year, with none for the successive



four years. Under State law, revenues would have to be sufficient to make up the first year's deficit. The fees outlined in the proposed legislation are already higher than those of similar boards. Raising the fees to recover revenue shortfalls would have an even greater impact on applicants.

Finally, the costs associated with the proposed requirement that applicants must be graduates of educational programs accredited by FIDER beginning in 2000, may also have an indirect effect of increasing costs, by limiting the supply of eligible interior designers, as well as incurring expenses on educational institutions in the State that must upgrade their programs, and pay the fees required to be accredited.

**Criterion 7 - Whether regulation will increase or decrease the availability or services to the public.**

**Explanation of Criterion**

*Criterion Seven seeks to determine whether regulation will adversely affect the supply of regulated providers, or the demand among the purchasers of services. Evidence should include any statutory or regulatory requirements that mandate the use of professional services. Evidence should also address the potential impact of regulation on: (a) the number of qualified practitioners, and (b) the concentration of practitioners in locations throughout the state.*

**Subcommittee's Research**

***Present and Projected Patterns of Demand for Interior Designers***

According to the South Carolina Employment Security Commission, between 1986 and the year 2000, 427 new jobs are predicted for interior designers, representing an increase of almost 56 percent from 763 jobs to 1190 jobs. The major settings in which interior designers work show little change, however. Employment of interior designers will continue to be evenly divided between retail trade and self-employment. The Employment Security Commission estimates that there are annually 68 job openings for interior designers.

***Impact of Entry Requirements on Supply of Interior Designers***

The Subcommittee could make only very rough estimates regarding the effect of regulation on the supply of interior designers to fill these vacancies, since supply patterns must also take into consideration a number of complex factors such as patterns of migration of practitioners into and out of the State, career changes, retirements, etc. However, a significant trend influencing the supply of interior designers, if regulation is enacted, is the number of graduates and the number of educational programs in the State, as well as the number of internships available for graduates of these programs.

Enactment of the proposed regulation, while not affecting the number of persons offering services that would fall into the definition of interior design, may have the effect of restricting job opportunities if employers give preference to those who refer to themselves as interior designers. There are approximately 800 persons in the state who presently identify themselves as interior designers. Approximately 300 of these are professional members of interior design associations such as the American Society of Interior Designers, Institute of Business Designers, or the International Society of Interior Designers, who would be eligible for certification immediately. Many of those remaining would be grandfathered for a period of one year.

The high registration fees contained in the proposed law, as well as examination fees, could discourage some qualified applicants from seeking certification. The fees for initial registration may not exceed \$200 for an individual, or \$250 a firm. The renewal fees are \$100 for an individual and \$150 for a firm. By comparison, architects pay initial registration fees of \$130 for an individual and \$100 for a firm. The renewal fees are \$65 and \$100, respectively. Refusing to obtain certification, however, would make it difficult for otherwise qualified persons to discuss their services with clients, since they could not represent themselves as "interior designers," nor their services as constituting "interior design."

Currently, only twelve states and the District of Columbia regulate interior designers. The surrounding states of Georgia and North Carolina do not regulate interior designers. These practitioners would be prohibited from representing themselves as interior designers in South Carolina without first obtaining certification in South Carolina. This may have the effect of depriving consumers in areas of South Carolina bordering these two states from having access to information about the availability of qualified interior designers located there.

Over time, the increasingly more stringent certification requirements may also discourage or prevent interior designers from becoming certified. After the first year, applicants would be required to qualify by demonstrating six years of combined education and experience, and passing the NCIDQ examination or its equivalent. According to NCIDQ, approximately 75 percent of persons taking the examination eventually pass. An additional entry requirement would be imposed in 2000, requiring applicants to be graduates of FIDER-accredited schools. There are a total of three FIDER accredited programs in South Carolina and the two adjoining states: North Carolina has none, and Georgia has one. At present, both of the FIDER-accredited interior design programs are at colleges located in the upper part of South Carolina. The Commission on Higher Education reports that the two FIDER-accredited interior design programs, at Winthrop and Converse Colleges, awarded a total of 18 degrees in 1990.

### Proponents

The regulation of the interior design profession will neither increase nor decrease the availability of services to the public. Since the proposed legislation is a "title act," not a "practice act," no one will be excluded from continuing to offer interior design services.

Nothing in the proposed law mandates the use of the services of an interior designer. Of the approximately 1,000 people offering interior design services, currently one-third would qualify by experience and education to register immediately. Many of those remaining would qualify during the one-year grandfathering period.

Those interior design practitioners entering the field after the enactment of interior design certification would be subjected to no additional requirements than are presently in place. Currently graduates serve an internship to verify a specific length of work experience, and sit for a voluntary examination. Most qualified graduates avail

themselves of this route. Those who do not choose to become certified may still offer services under a number of occupational titles.

### Subcommittee's Conclusion

*The Sunrise Subcommittee concludes that regulation of interior designers may indirectly decrease the availability of services.*

State regulation should not deprive any person of the use of a title, or from entering into a profession, unless there is an overwhelming need to protect the public interest. While nothing in the proposed legislation directly decreases the availability of interior design services, it has the potential, of reducing the number of practitioners who are allowed to refer to themselves as interior designers, by imposing initial and increasingly more stringent certification requirements.

Studies of occupational regulation have found that certification may have some of the effects of more restrictive licensing acts, if it restricts a title by which consumers commonly seek a practitioner. The proposed regulation is more restrictive than some title protection acts, since it would reserve the title "interior designer," not just "certified interior designer" or "registered interior designer." Persons who could not or chose not to be certified as interior designers would be unable to refer to themselves, or their services, as "interior designer" or "interior design."

Since there is no evidence that the public is being harmed, or receiving services of inferior quality in the interior design field, the potential negative effects of any decrease in competition in the interior design field, outweigh the potential benefits the public would derive from requiring persons using the title interior designer to meet specific educational, examination, and experience requirements.

**Criterion 8 - Whether regulation will assure the competency of practitioners of the occupation.**

**Explanation of Criterion**

*Criterion Eight seeks to determine whether regulation of the profession is commensurate with the degree of harm documented, and whether regulation would be a continuing and effective remedy to the problems identified. While Criterion Seven examined the impact of regulation on the quantity of services available, this criterion focuses on regulation's impact on the quality of those services, and the degree to which state regulation will assure a practitioner's initial and continuing competency.*

**Subcommittee's Research**

***Defining Competent Interior Design Practice***

Proponents of interior designer regulation contend that incompetent practitioners pose a threat to the public's health, safety, and welfare—specifically through their lack of understanding and knowledge of building codes, and other health and safety requirements. The proposed regulation would establish a system of title protection, by reserving the legal use of the title "interior designer" to those determined to be competent by virtue of fulfilling the educational, experience, and examination requirements specified in the bill.

How would state regulation ensure the competency of interior designers? All candidates, after the first year, would be required, under the law, to pass the NCIDQ examination. A job analysis of the profession of interior designer, conducted in 1988 by the National Council for Interior Design Qualifications (NCIDQ) and the Educational Testing Service, to determine the nature of the interior designer's specialized knowledge and tasks. NCIDQ has based their testing performance criteria on a definition of the knowledge and skills held in common by competent interior design professionals. The definition, developed by FIDER and NCIDQ, of the interior designer's common body of knowledge includes a total of twelve areas, including:

- basic elements of design and composition;
- theories of design, color, etc., that lead to an understanding of the interrelationship of beings and the built environment;
- the design process, from programming to evaluation;
- space planning, furniture planning and selection;

- design attributes and aesthetic qualities of materials, lighting, furniture, textiles;
- technical aspects of surface and structural materials, soft goods, textiles, and detailing of furniture, cabinetry, and interiors;
- communication skills;
- history and organization of the profession, business practices, and ethics;
- styles of architecture, furniture, art, and accessories;
- research and analytical methods necessary to develop sound design concepts and solutions;
- *technical aspects of structure and construction sufficient to enable discourse and cooperation with related disciplines; and,*
- *application of laws, building codes, regulations, and standards that affect design solutions in order to protect the health, safety, and welfare of the public (emphasis added) (FIDER 1991).*

FIDER accreditation standards also assess achievement levels of students relative to the content units in the standards. Competency is the highest level of achievement, followed by understanding and awareness. As to the content unit relating to technical requirements, FIDER standards state:

To function as a professional, an interior designer must have sufficient technical knowledge to understand related disciplines and to design within their constraints. The designer must possess knowledge of building systems, surface materials, detailing, and installation methods. By definition, the interior designer must be competent in the laws, codes, regulations, and standards that affect design solutions in order "to protect the health, safety, and welfare of the public." (FIDER 1991).

### ***Establishing Initial Competency of Practitioners***

- **Voluntary certification.** State regulation would restrict the use of the title of "interior designer" to those persons who had met specific educational, experience, and examination requirements. The regulation does not preclude practice by noncertified applicants. The requirements for state certification are identical to those required for professional membership in several interior designer professional associations.

- **Grandparenting provisions.** Existing practitioners would be grandfathered after certifying to the Board they possessed six years experience. All initial applicants would be required to pass fire safety and building codes exam. However, under the amended

House version of the proposed bill, grandfathered applicants would have three years in which to pass this portion, during which time they will not be required to demonstrate any competence in this area.

- **Testing mechanisms.** Thirteen percent of the NCIDQ examination constitutes questions relating to knowledge of codes and standards. The Building and Barrier Free Codes section is one of six sections. Two-thirds of this section deals with life safety, building codes, barrier free, and testing standards. The examination guide produced by NCIDQ states that generally, the code questions test concepts rather than specifics. The candidate needs to be aware of and understand building and barrier free codes documented in current editions of code books. The examination does not address modifications and exemptions made by cities, states, or counties.

- **School accreditation.** Beginning in the year 2000, only coursework at FIDER-accredited educational programs would be accepted as meeting the stated educational requirements.

### *Assuring Continued Competence*

- **Continuing education.** As a condition of annual renewal of certification, practitioners must complete eight hours of mandatory continuing education acceptable to the Board. One interior designer raised concerns that Board-approved continuing education courses would be limited only to offerings by professional organizations, and would exclude seminars offered by painting, wallpapering, and lighting companies, which he had found beneficial and less costly to attend. One-fourth of 88 approved continuing education courses offered through the American Society of Interior Designers dealt with aspects of interior design related to health, safety, or welfare (ASID 1991).

- **Complaint handling and discipline.** The proposed regulation would establish a means of monitoring the fitness of certified practitioners. While it does provide a system of handling complaints against designers, the proposed law contains no grounds for disciplinary action against designers failing to comply with applicable codes or standards governing public health and safety.

### **Proponents**

The proposed legislation establishes minimum competency standards for the profession, assuring the public that licensed interior designers had minimum education and experience, had successfully passed a standardized national examination, and were obtaining annual continuing education courses. Presently, there are no minimum educational requirements for entry into the interior design field. Anyone who "has a flair" or "good color sense" may offer design services to an unsuspecting public. With this legislation, practitioners must have a combined total of six years of education and experience. In addition, all interior designers will be required to pass a fire safety and building codes exam. Thus, this legislation would also assure the public that such designers were knowledgeable about fire safety regulations and building codes.

## Opponents

Many architects expressed concern that title registration of interior designers, without practice regulation, served no real purpose and would mislead the public into believing that interior design is regulated to the same extent as medicine, law, engineering, and architecture. Also, the effect of grandfathering will result in misleading the public, since many unqualified practitioners will be granted the right to use the title "interior designer," and be placed on equal footing with qualified interior designers.

Some architects commented that it would be difficult to regulate the practice of interior design, due to the nature of the present interior designer educational standards and requirements. For example, the accreditation standards are unclear. FIDER accreditation standards may include home economics program or masters' level program. Taking the NCIDQ examination does not require applicants to have attended a FIDER-accredited program, in any case. The NCIDQ examination focuses chiefly on aesthetics and business practices. Only a handful of questions focus on technical and life safety considerations.

Some interior designers derive a substantial portion of their income, not from their fees for their services, but from the sale of products to clients. Regulation of interior designers must invite state board discipline if designers accept compensation from manufacturers when specifying the manufacturer's products.

## Subcommittee's Conclusion

*The Sunrise Subcommittee concludes that the proposed regulation would not be effective in addressing the problems cited, since its grandfathering provisions would not necessarily assure the public of the competency of applicants.*

The Subcommittee found no allegations of incompetence among those who presently consider themselves interior designers, nor documented evidence to suggest that non-credentialed persons were less successful in performing interior design services than credentialed persons. Also, pleasing results in interior design are largely dependent on the skill and talent of the interior designer in producing aesthetic and functional design plans. The consumer cannot always be assured that meeting minimum educational and examination standards will produce these desired results.

There is also some question as to the level of competency certified interior designers would possess in regard to building and fire codes and standards. There is no assurance that passing a general examination on building codes and standards would ensure competency of interior designers in this area, unless the examination was designed to test the applicant's specific knowledge of South Carolina laws relating to building construction and life safety requirements. At any rate, some applicants would be grandfathered in initially, without regard to their knowledge of building codes and standards.



The Subcommittee found no evidence to suggest that unqualified interior designers are more likely to harm the public than qualified interior designers. However, if evidence of such incompetence did exist, the proposed legislation would be largely ineffective in protecting consumers from risks associated with poor quality interior design. Consumers will still have access to interior design services of a greater number of unregulated practitioners which they may substitute for the services of the regulated group. This is no different from the situation that presently exists in the absence of regulation, in that consumers presently have the ability to choose either an interior designer who is credentialed through a national professional association, or an interior designer who is not affiliated with a professional organization.

**Criterion 9 - Whether regulation can be provided through an existing state agency or under supervision of presently licensed practitioners.**

*Explanation of Criterion*

*Traditionally, the most common pattern found in the states for administering occupational regulation, once enacted, has been an autonomous or semi-autonomous board made up of members of the regulated profession. Increasingly, however, states have moved towards placement of licensing boards within a common or central agency of state government in the interest of achieving greater administrative efficiency and public accountability.*

**Subcommittee's Research**

***Means Proposed of Administering State Regulation***

The proposed bill would create a new state agency by establishing an independent Interior Design Board, composed of seven members. The Board composition would include five interior design professionals, one architect, and one consumer member.

The proposed regulation requires each applicant to take and pass a standardized examination, and to this end authorizes the Interior Design Board to adopt the examination and grading procedures of the National Council for Interior Design Qualification (NCIDQ). Prior to being able to use the NCIDQ examination, state regulatory boards must apply for and be granted membership on the Council's Board of Directors by meeting criteria established in the Council's by-laws and paying dues of \$2500 annually. In a letter to the State Reorganization Commission, the Executive Director of NCIDQ outlined the NCIDQ's examination and grading procedures, as follows:

NCIDQ's administration for qualifying examinations has been in place for many years and has evolved to meet growing numbers of registrants. It is, therefore, NCIDQ's preference to continue to have individuals enroll in the examination process through currently established procedures. These procedures involve either direct application to NCIDQ by non-affiliated practitioners or submission of newly eligible candidates' names by professional societies and/or regulatory agencies (who are members of the Council's board of directors)(*emphasis added*). Once the individual, organization, or regulatory agency has provided the names, the names remain in the NCIDQ data base; and all subsequent notifications become the responsibility of NCIDQ. This process also includes notification of pass/fail statistics to the organizations who submit the lists of eligible candidates.

In 1987 and 1988, the Council conducted a pilot program which allowed licensed jurisdictions to administer independently the examination in their respective locales. The results were not satisfactory either to the regulatory agencies or to NCIDQ....Allowing NCIDQ to continue to perform its established procedures provides for consistency in communications and administration, simplifies the process for license/registration applicants, eases the burden for

regulatory agencies and permits NCIDQ to retain control of a complex examining structure.<sup>1</sup>

The Interior Design Board would also receive complaints and take disciplinary actions against interior designers violating provisions on the proposed statute or regulations promulgated pursuant to the statute.

The proposed statute also establishes a separate "Interior Design Board Fund," to which all fees must be credited. The Board would be authorized to use a part of the proceeds from the Fund "for promoting FIDER (Foundation for Interior Design Educational Research)," a private accrediting body.

### *Alternatives for Administration Within Existing Agency*

Interior designers argue that they are the only members of the professional design team who are not regulated by the State. A number of existing state agencies that credential other design professionals do exist, including the State Board of Architectural Examiners, the State Board of Registration for Professional Engineers and Land Surveyors, and the Board of Registration for Landscape Architects.

In September 1991, the South Carolina Commission on Government Restructuring proposed the consolidation of the State's thirty-nine professional and occupational licensing boards into a cabinet-level department. The Commission's report *Modernizing South Carolina State Government for the Twenty-First Century* found that consolidating the administrative functions of boards of related professions would eliminate duplication and overlapping responsibilities. While the administrative costs of these boards are required to be recovered through fees, occupational regulation is not without costs. During the last fiscal year, the combined appropriation of the State's occupational licensing boards exceeded nine million dollars and employed over 175 individuals.

### **Proponents**

Proponents of regulation contend that interior design is clearly distinguishable from other related professions and, as such, cannot be regulated by existing governmental agencies. While interior designers work on projects with architects and engineers, they are more often involved in the design of non-structural space independent of other disciplines. The costs of implementing and administering the Board (estimated to be \$58,000 the first year) will be covered by fees collected from licenses issued, so there is no fiscal impact on state finances. The expense of establishing the Board is estimated to be \$58,000.

### **Opponents**

The State Board of Architectural Examiners expressed opposition to any proposals to oversee the regulation of interior designers, citing the following reasons:

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<sup>1</sup> Letter, August 21, 1991, Loren Swick, Executive Director, National Council for Interior Design Qualification, New York, New York, to S.C. State Reorganization Commission.

a. It would immediately diminish the capability of the State of South Carolina to uphold the requirements of the existing Architectural Registration Law;

b. The majority of interior design services evolve around finishes and furnishing selection and specification, in direct contrast to the principles of architecture as defined in Section 40-3-10, S.C. Code of Laws 1976, as amended.

c. It would adversely impact responsiveness and service to the licensed practitioners and candidates for examination; and

d. The questionable ability of the interior designers to generate sufficient revenue as required by State Law.

The Consumer Advocate, while not opposed to regulation of the profession, stated his opposition to the creation of another State agency. He stated that if regulation is implemented, it should not include a board. Instead, an existing agency, such as the Office of Secretary of State, should regulate the profession.

#### Subcommittee's Conclusion

*The Sunrise Subcommittee concludes that, should regulation of interior designers be enacted, the administrative and oversight responsibilities should be placed with an existing state agency.*

The Subcommittee questions the need to establish a state regulatory agency for interior designers as contained in the proposed legislation, since enactment of the legislation essentially would duplicate an existing credentialing process now being administered by private associations. The existing credentialing process is now purely voluntary, but enactment of the proposed regulation may have the effect of mandating affiliation with a professional association in order to retain the right to use the title "interior designer" in South Carolina. There is also some question as to the degree of control the Interior Design Board would possess over the decision to grant initial certification, if examination administration and grading is delegated entirely to a professional association.

The Subcommittee does not have a specific recommendation regarding placement of interior designer regulation, since it does not recommend the regulation of interior designers. However, South Carolina has at least three boards already in existence that deal directly with the regulation of the design professions, with which responsibility could be placed for performing, at a minimum, the administrative functions associated with the regulation of interior designers. One alternative, discussed at the conclusion of this report, would be to require interior designers to register with the Secretary of State's Office.

## RECOMMENDATION

*The Sunrise Subcommittee recommends that the General Assembly enact no regulation of interior designers at this time.*

and

The provisions of Act 572 of 1988 specify that the Commission must recommend no regulation unless necessary to protect the health, safety, or welfare of the public. Based on an evaluation applying the nine Sunrise criteria, the Sunrise Subcommittee of the State Reorganization Commission concludes that the unregulated practice of interior designers does not present a clear and recognizable danger to the public health, safety, or welfare.

### Alternatives

However, if the General Assembly determines that existing remedies do not adequately protect the public from harm caused by services provided by interior designers, it may wish to consider the alternatives listed below.

**Establishment of statewide building codes.** A statewide building code, with required inspections and training for inspectors, would provide consistent minimum standards across the State.

**Registration of Interior Designers.** Legislation would provide for the name, location, and credentials of each practitioner engaging, for a fee, in interior design. No minimum qualifications would be required for registration, but revocation of registration, in accordance with the Administrative Procedures Act, would have the effect of prohibiting incompetent interior designers from practicing. Responsibility for the registration of interior designers could be placed with an existing state agency, such as the Secretary of State's Office, the Department of Consumer Affairs, or the State Board of Architectural Examiners.